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MAR 13 2006

PATENT APPLICATION

ATTORNEY DOCKET NO. 10991929-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Terry A. Smith et al.

Confirmation No.: 4729

Application No.: 09/620,617

Examiner: Chan S. Park

Filing Date: Jul. 21, 2000

Group Art Unit: 2622

Title: System For Printing A Document With Recurring Images

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on Dec. 13, 2005.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$500.00.

(complete (a) or (b) as applicable)

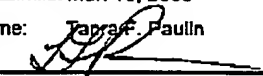
The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☒ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:☒ 1st Month
\$120☐ 2nd Month
\$450☐ 3rd Month
\$1020☐ 4th Month
\$1590☐ The extension fee has already been filed in this application.☐ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of \$ 620 . At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Respectfully submitted,

Terry A. Smith et al.

By 

Steven R. Ormiston

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03/14/2006 HTECKLU1 00000054 082025 09620617
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INVENTOR(S): Smith et al.

SERIAL NO.: 09/620,617

GROUP ART UNIT: 2622

FILED: July 21, 2000

EXAMINER: C. Park

TITLE: SYSTEM FOR PRINTING A DOCUMENT WITH RECURRING IMAGES

APPELLANTS'/APPLICANTS' OPENING BRIEF ON APPEAL

1. REAL PARTY IN INTEREST.

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holding, LLC.

2. RELATED APPEALS AND INTERFERENCES.

There are no other appeals or interferences known to Appellants, Appellants' legal representative or the Assignee which will affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

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3. STATUS OF CLAIMS.

Claims 1, 5-6, 8, 10-14, 18-20 and 22-25 are pending. Claims 2-4, 7, 9, 15-17 and 21 have been canceled. The rejection of all pending claims, Claims 1, 5-6, 8, 10-14, 18-20 and 22-25, is appealed. Only the pending claims appear in Appendix I.

4. STATUS OF AMENDMENTS.

No amendments were filed after the final action.

5. SUMMARY OF CLAIMED SUBJECT MATTER.

The claims relate to printing each instance of an image that occurs more than once in a document from the same video data or from new video data. An image that occurs more than once in a document is referred to as a form.

Claim 1, for example, is directed to a printer that includes a means for responding to an indication to print each instance of the form from the same video data according to a first printing algorithm and for responding to an indication to print each instance of the form from new video data according to a second printing algorithm. Printer control unit 350 operating under the direction of printer firmware program 367 in Fig. 3 corresponds to the means for responding to the indication. The functions are described in the Specification with regard to step 408 in Fig. 4 at page 7, lines 20-22 and page 8, lines 10-14.

Claim 8, for example, is directed to a method of printing a form that includes responding to a parameter being set to a first value to use the same video data to print each instance of the form (e.g., Step 408 in Fig. 4, Steps 602-607 and 614-618 in Fig. 6 and Specification page 5, Table I value #2, page 7, lines 12-19 and page 8, line 10 through page 9, line 22) and responding to the parameter being set to a second value to print each instance of the form from new video data (e.g., Step 408 in Fig. 4, Steps 502-510 in Fig. 5 and Specification page 5, Table I value #1, page 7, line 12 through page 8, line 9).

Claim 10, for example, is directed to a method of printing a form that includes responding to a parameter being set to a first value to use the same video data to print each instance of the form (e.g., Step 408 in Fig. 4, Steps 602-607 and 614-618 in Fig. 6 and Specification page 5, Table I value #2, page 7, lines 12-19 and page 8, line 10 through page 9, line 22) and responding to the parameter being set to a second value

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to use a display list data to print each instance of the form (e.g., Step 408 in Fig. 4, Steps 502-510 in Fig. 5 and Specification page 5, Table I value #1, page 7, line 12 through page 8, line 9).

Claim 14, for example, is directed to a computer that includes:

means for generating a plurality of commands describing a document, the commands including a named sequence describing a form and at least one command indicating permission is granted to convert the named sequence once into video data and to then print each instance of the form from the video data or at least one command indicating new video data is to be generated to print each instance of the form (application 312 and printer driver 314 in computer 102 in Fig. 3 corresponds to the means for generating the commands and the functions are described in Examples #1 and #2 in the Specification at pages 11-13); and

means for transmitting the plurality of commands to a printer (computer input/output port 312 and printer driver 314 in Fig. 3 corresponds to the means for transmitting the commands and the function is described in the Specification at page 5, lines 25-26 and page 6, lines 17-21).

Claim 22, for example, is directed to a printer that includes a control unit configured to (e.g., printer control unit 350 operating under the direction of printer firmware program 367 in Fig. 3) respond to (1) an indication to print each instance of the form from the same video data according to a first printing algorithm (e.g., Step 408 in Fig. 4 and Specification page 5, Value #2 in Table I, page 7, lines 12-19 and page 8, lines 10-14), (2) an indication to print each instance of the form from new video data according to a second printing algorithm (e.g., Step 408 in Fig. 4 and Specification page 5, value #1 in Table I, page 7, lines 12-22), (3) an indication that the form is a fixed form by printing the form according to the second algorithm (e.g., Step 408 in Fig. 4 and Specification page 5, value #3 in Table I, page 7, lines 12-19 and page 8, lines 10-14), or (4) an indication that the form is a background image by printing the form according to a third algorithm (e.g., Step 408 in Fig. 4 and Specification page 5, value #4 in Table I, page 7, lines 12-19 and page 9, lines 27-30).

Claim 23, for example, is directed to a computer readable medium having programming thereon (Specification page 14, lines 4-7) configured to generate PDL print commands including a named sequence describing a form and an indicator indicating (1) permission is granted to print each instance of the form from the same

video data (e.g., Step 408 in Fig. 4, Steps 602-607 and 614-618 in Fig. 6 and Specification page 5, Table I value #2, page 7, lines 12-19 and page 8, line 10 through page 9, line 22), (2) each instance of the form is to be printed from new video data (e.g., Step 408 in Fig. 4, Steps 502-510 in Fig. 5 and Specification page 5, Table I value #1, page 7, line 12 through page 8, line 9), (3) the form is a fixed form (e.g., Step 408 in Fig. 4 and Specification page 5, value #3 in Table I, page 7, lines 12-19 and page 8, lines 10-14), or (4) the form is a background image (e.g., Step 408 in Fig. 4 and Specification page 5, value #4 in Table I, page 7, lines 12-19 and page 9, lines 27-30).

Claim 25, for example, is directed to printer firmware that includes a computer readable medium having programming thereon (Specification page 14, lines 4-7) for responding to (1) an indication to print each instance of the form from the same video data according to a first printing algorithm (e.g., Step 408 in Fig. 4 and Specification page 5, Value #2 in Table I, page 7, lines 12-19 and page 8, lines 10-14), (2) an indication to print each instance of the form from new video data according to a second printing algorithm (e.g., Step 408 in Fig. 4 and Specification page 5, value #1 in Table I, page 7, lines 12-22), (3) an indication that the form is a fixed form by printing the form according to the second algorithm (e.g., Step 408 in Fig. 4 and Specification page 5, value #3 in Table I, page 7, lines 12-19 and page 8, lines 10-14), or (4) an indication that the form is a background image by printing the form according to a third algorithm (e.g., Step 408 in Fig. 4 and Specification page 5, value #4 in Table I, page 7, lines 12-19 and page 9, lines 27-30).

6. GROUNDS OF REJECTION TO BE REVIEWED.

1. The definition of a "form" excludes images that occur only once in a document such as those described in Suzuki. Ground No. 1 applies to all appealed claims.

2. Suzuki does not teach processing an image that occurs more than once in a document. Ground No. 2 applies to all appealed claims.

3. Suzuki does not teach the responding, converting and generating acts of Claim 8. Ground No. 3 applies to Claim 8.

4. Suzuki does not teach the responding, converting and converting acts of Claim 10. Ground No. 4 applies to 10-13.

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7. ARGUMENT.

All pending claims stand rejected under Section 102 and 103 as being anticipated by Suzuki (5923013) (Claims 1, 5, 6, 8, 10-14 and 18-20) or obvious over Suzuki in view of Shimuzu (6052202) (Claims 22-25).

Ground No. 1

**A form is an image that occurs more than once in a document
(Claims 1, 5-6, 8, 10-14, 18-20 and 23-25).**

"Form" is specially defined in the Specification as an image that occurs more than once in a document. Specification, page 1, lines 17-20. The Examiner, however, asserts that the definition of a form includes images that occur only once in a document. In support of this assertion, the Examiner states:

"Although one part of the Specification defines the term 'form' as an image that occurs more than once in a document (page 1, lines 17-19 of the Specification), the original drawings clearly do not limit its definition to be it. Fig. 2, for example, defines a document 202 as a two page document having several forms (204, 206 and 208). It is evidently clear that neither form 206 nor form 208 occurs more than once in the document. Hence, the Office concluded, based on the Specification, that the 'form' could be defined as an image that occurs only once in the document." Advisory Action mailed December 2, 2005, page 2.

The Examiner has misinterpreted the Specification and Fig. 2 — part numbers 206 and 208 do not designate forms. Fig. 2 is described in the Specification at page 5, lines 11-17. This passage is quoted below in full verbatim.

"To illustrate the meaning of the phrase 'background image', reference is briefly made to FIG. 2. FIG. 2 shows a two page document 202 that includes a background image. The background image is shown within box 204. The respective image on each page that overlaps the background image is referred to as herein [sic] as a 'foreground image'. The foreground image in page 1 of the document 202 is shown in box 206. The foreground image in page 2 is shown within box 208."

The background image shown within box 204 in Fig. 2 is an example of a form because it occurs more than once in document 202. The foreground images shown in boxes 206 and 208 are not forms because they appear only once in document 202. There is nothing in Fig. 2 that is inconsistent with the definition of a form as an image that occurs more than once in a document. The Examiner, therefore, erred in not

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applying the definition of a form specially set forth in the Specification. See MPEP 2173.05(a).

Ground No. 2

Suzuki does not teach processing an image that occurs more than once in a document (Claims 1, 5-6, 8, 10-14, 18-20 and 23-25).

The claims recite limitations related to processing images that occur more than once in a document according to different printing techniques, depending on which technique is indicated. For example, Claim 1 recites a means for:

(1) responding to the indicator indicating permission is granted to print each instance of the form from the same video data by processing and printing the named sequence according to a first printing algorithm; and

(2) responding to the indicator indicating each instance of the form is to be printed from new video data by processing and printing the named sequence according to a second printing algorithm.

The Examiner asserts, incorrectly, that printing a page from a document more than once in Suzuki constitutes printing an image that occurs more than once in a document. The Examiner explains his assertion in the Advisory action as follows:

"Furthermore, even if the definition is considered, Suzuki clearly shows that the same images occur more than once in a document. As shown in figs. 24 and 25, document (B) has same page [sic] printed more than once based on the print commands. Note that examiner applied the document defined in fig. 9 of the applicant's Specification in interpreting the term 'document'. Advisory Action mailed December 2, 2005, page 3.

Figs. 24 and 25 in Suzuki illustrate printing configurations in which not all of the pages in a document are printed and/or the pages are printed out of sequential order. Fig. 24 shows an example of "multiple-copy print mode" in which 10 copies of pages 1, 2, 5, 6 and 7 are printed followed by 5 copies of pages 1, 2, 3, 4, 8 and 9. Fig. 25 shows as example of a combination of "any-page sequence print mode and the multiple-copy print mode" in which 1 copy of pages 1, 2, 6, 3, 4 and 5 are printed followed by 1 copy of pages 1, 2, 7, 3, 4 and 5 followed by 1 copy of pages 1, 2, 8, 9, 3, 4 and 5. Suzuki, column 14, line 56 through column 15, line 4.

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There is nothing in Suzuki Figs. 24 and 25 or in the text describing those figures that teaches or even suggests there are images that occur more than once in a document. This is so even if each copy of each page sequence is deemed to be a separate document. The fact that a page from a document may be printed many times does not mean the page occurs more than once in the document. Each page, by definition, occurs once in a document no matter how many times the page is printed.

There is nothing in Fig. 9 of the present application inconsistent with this conclusion. Indeed, Fig. 9 distinguishes Suzuki. Document 902 in Fig. 9 "includes a form which is labeled as 'form B'. Form B may represent any recurring image in the document such as a company logo. There are two instances of form B in document 902: an instance 904 [on page 1] and an instance 906 [on page 2]." Specification page 12, lines 10-14. Fig. 9 clearly illustrates a document that includes an image (form B) that occurs more than once in the document. There is no such document or teaching in Suzuki.

The absence of this fundamental teaching in Suzuki means the Examiner has not and cannot establish a prima facie case of anticipation or obviousness based on Suzuki. For this reason alone, the rejection of all of the pending claims should be reversed.

Ground No. 3

Suzuki does not teach the responding, converting and generating acts of Claim 8 (Claim 8).

Claim 8 recites responding to the parameter being set to a first value by converting the named sequence (describing a form) into video data and then using the video data to print each instance of the form, and responding to the parameter being set to a second value by generating new video data to print each instance of the form.

In Suzuki, when the user specifies which saved print job is to be printed, the print programming routine checks to see whether or not the print job has already been rasterized/expanded (i.e., saved before RIP or saved after RIP). If the print job was saved after RIP, the print job is printed. If the print job was saved before RIP (i.e., not expanded), then the file is rasterized/expanded before printing. Suzuki, column 12, lines 10-27.

There is nothing in this sequence of events in Suzuki that teaches or suggests the converting and generating actions of Claim 8. Even assuming rasterizing a print job saved before rasterizing might somehow be deemed the required converting or the required generating, it cannot be both. That is to say, for a print job saved after rasterizing there is neither converting nor generating. The Examiner's apparent assertion to the contrary is not correct. If the print job has been saved after rasterizing, there is nothing left but to print the job – "In S208, the routine starts printing based on the job description file." Suzuki, column 12, lines 24-25. Nothing new is generated and nothing old is converted.

Suzuki does not teach all of the limitations of Claim 8 and the rejection of Claim 8 should, therefore, be reversed.

Ground No. 4

Suzuki does not teach the responding, converting and converting acts of Claim 10 (Claims 10-13).

Claim 10 recites responding to the parameter being set to a first value by converting the named sequence into video data and then using the video data to print each instance of the form, and responding to the parameter being set to a second value by converting the named sequence into display list data and then using the display list data to print each instance of the form.

In Suzuki, when the user specifies which saved print job is to be printed, the print programming routine checks to see whether or not the print job has already been rasterized/expanded (i.e., saved before RIP or saved after RIP). If the print job was saved after RIP, the print job is printed. If the print job was saved before RIP (i.e., not expanded), then the file is rasterized/expanded before printing. Suzuki, column 12, lines 10-27.

There is nothing in this sequence of events in Suzuki that teaches or suggests the two converting actions of Claim 10. Even assuming rasterizing a print job saved before rasterizing might somehow be deemed the first required converting or the second required converting, it cannot be both. That is to say, for a print job saved after rasterizing there is no converting. The Examiner's apparent assertion to the contrary is not correct. If the print job has been saved after rasterizing, there is nothing left but to

print the job -- "In S208, the routine starts printing based on the job description file."
Suzuki, column 12, lines 24-25. Nothing is converted.

The Examiner's reliance to S201 and S202 in Suzuki in support of the rejection is misplaced. In S201, a list of saved print jobs is displayed. In S202, the operator enters a print request for one of the print jobs displayed in S201. Neither step has any relevance at all to the claimed converting actions which occur *after* the act of receiving the named sequence and associated parameter.

Suzuki does not teach all of the limitations of Claim 10 and the rejection of Claim 10 should, therefore, be reversed.

Respectfully submitted,

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APPENDIX I – CLAIMS INVOLVED IN THE APPEAL

1. A printer, comprising:
 - (a) an I/O port capable of receiving a plurality of commands describing a document, the commands including both a named sequence describing a form and an indicator; and
 - (b) means for responding to the indicator indicating permission is granted to print each instance of the form from the same video data by processing and printing the named sequence according to a first printing algorithm and for responding to the indicator indicating each instance of the form is to be printed from new video data by processing and printing the named sequence according to a second printing algorithm.
5. The printer of claim 1, wherein the plurality of commands are received from a computer externally connected to the I/O port.
6. The printer of claim 5, wherein the indicator is generated by the computer.
8. In a printer, a method of processing and printing a named sequence describing a form, comprising:
 - (a) receiving the named sequence and an associated parameter;
 - (b) responding to the parameter being set to a first value, indicating permission is granted to print each instance of the form from the same video data, by converting the named sequence into video data and then using the video data to print each instance of the form; and
 - (c) responding to the parameter being set to a second value, indicating that each instance of the form is to be printed from new video data, by generating new video data to print each instance of the form.
10. In a printer, a method of processing and printing a named sequence describing a form, comprising:
 - (a) receiving the named sequence and an associated parameter;
 - (b) responding to the parameter being set to a first value, indicating permission is granted to print each instance of the form from the same video data, by

converting the named sequence into video data and then using the video data to print each instance of the form; and

(c) responding to the parameter being set to a second value, indicating each instance of the form is to be printed from new video data, by converting the named sequence into display list data and then using the display list data to print each instance of the form.

11. The method of claim 8, wherein the named sequence and associated parameter are received from a source externally connected to the printer.

12. The method of claim 10, wherein the named sequence and associated parameter are received from a source externally connected to the printer.

13. The method of claim 12, wherein step (c) comprises the following substep:

(c.1) flagging the display list data as a candidate for caching.

14. A computer, comprising:

(a) means for generating a plurality of commands describing a document, the commands including a named sequence describing a form and at least one command indicating permission is granted to convert the named sequence once into video data and to then print each instance of the form from the video data or at least one command indicating new video data is to be generated to print each instance of the form; and

(b) means for transmitting the plurality of commands to a printer.

18. The computer of claim 14, wherein the printer is responsive to the plurality of commands by printing the document.

19. The computer of claim 14, wherein the printer is connected to the computer over a network.

20. The computer of claim 14, wherein the plurality of commands forms a print job.

22. A printer, comprising:
an input/output port for receiving PDL print commands;
a control unit operatively connected to the input/output port;
a print engine operatively connected to the control unit; and
the control unit configured to respond to PDL print commands that include a named sequence describing a form and an indicator by (1) if the indicator indicates permission is granted to print each instance of the form from the same video data, processing the named sequence according to a first printing algorithm, (2) if the indicator indicates each instance of the form is to be printed from new video data, processing the named sequence according to a second printing algorithm, (3) if the indicator indicates the form is a fixed form, processing the named sequence according to the second algorithm, or (4) if the indicator indicates the form is a background image, processing the named sequence according to a third algorithm.
23. A computer readable medium having programming thereon configured to generate PDL print commands including a named sequence describing a form and an indicator indicating (1) permission is granted to print each instance of the form from the same video data, (2) each instance of the form is to be printed from new video data, (3) the form is a fixed form, or (4) the form is a background image.
24. The computer readable medium of claim 23, wherein the indicator comprises a parameter having a value associated with each of the four different indications.
25. Printer firmware comprising a computer readable medium having programming thereon for responding to PDL print commands that include a named sequence describing a form and an indicator by (1) if the indicator indicates permission is granted to print each instance of the form from the same video data, processing the named sequence according to a first printing algorithm, (2) if the indicator indicates each instance of the form is to be printed from new video data, processing the named sequence according to a second printing algorithm, (3) if the indicator indicates the form is a fixed form, processing the named sequence according to the second algorithm, or (4) if the indicator indicates the form is a background image, processing the named sequence according to a third algorithm.

APPENDIX II – EVIDENCE SUBMITTED UNDER RULES 130, 131 OR 132

none

APPENDIX III – RELATED PROCEEDINGS

none